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PART IV.

Official Papers.

The following Draft Regulation is published for general information :—

DRAFT

OF

A Regulation to amend the constitution of the Chief Court of Mysore.

WHEREAS it is expedient to amend the constitution of the Chief Court of Mysore, His Highness the Maharaja of Mysore is pleased to enact as follows :—

Section 1.—This Regulation may be called "The Mysore Chief Court Regulation, 1884."

Short title.

It shall extend to the whole of the Territories of Mysore and it shall come into force on the twenty-eighth day of May 1884.

Local extent.

Section 2.—On and from that day, the Rules published with Notifications Nos. 280 and 282, dated 10th October 1879, shall be repealed.

Repeal.

Section 3.—In this Regulation, unless a contrary intention appears from the context, "Chief Court" means the Chief Court of Mysore as constituted under this Regulation, and "Chief Judge" means the Chief Judge of the said Chief Court appointed under this Regulation ; and reference to the "Chief Court" or to the "High Court" in any Regulation, Act, or other law for the time being in force shall be deemed to have been made to the Chief Court as constituted under this Regulation.

Interpretation Clause.

"Full Bench" means a Bench consisting of all the Judges of the Chief Court.

Constitution of the Chief Court.

Section 4.—The Chief Court of Mysore shall consist of three or more Judges who shall be appointed by His Highness the Maharaja of Mysore and shall hold their offices during His Highness' pleasure.

One of the Judges of the Chief Court shall be appointed to be the Chief Judge of that Court by His Highness the Maharaja, provided that the officer holding the appointment of the Chief Judge at the time of this Regulation coming into operation shall become the Chief Judge of the Chief Court of Mysore as constituted under this Regulation without further appointment.

Precedence of Judges.

Section 5.—The Chief Judge shall have rank and precedence before the other judges of the Chief Court, who as between themselves shall have rank and precedence according to the seniority of their appointments as such Judges.

Seal of the Chief Court.

Section 6.—The Chief Court shall have and use, as occasion may require, a seal bearing a device and impression of the Royal Arms of His Highness the Maharaja of Mysore with the inscription "The Chief Court of Mysore" in English and Canarese. The said seal shall ordinarily be kept in the custody of the Chief Judge.

All decrees, orders, summonses and other processes issued by the Chief Court shall be sealed with the said seal and shall be signed by a Judge or the Registrar of the Chief Court.

Appointment of ministerial officers.

Section 7.—(1) The Chief Court may, from time to time, and subject to any rules and restrictions which may be prescribed by the Government of Mysore, appoint a Registrar and a Deputy Registrar and such other ministerial officers as may be necessary for the administration of justice by the Chief Court and for the exercise of the powers and discharge of the duties conferred and imposed on the said Court by this Regulation.

(2) The appointment of the Registrar and Deputy Registrar shall be subject to the sanction of the Government of Mysore.

(3) The Registrar and other ministerial officers of the Chief Court holding appointments on the date of this Regulation coming into force shall be deemed to have been appointed hereunder.

Duties of ministerial officers.

Section 8.—The officers appointed under the last preceding Section shall exercise such powers and discharge such duties of a ministerial nature as the Chief Court may, from time to time, direct.

Suspension and dismissal of ministerial officers.

Section 9.—Any such officer may be suspended or dismissed from his office by order of the Chief Court, provided that the Registrar and Deputy Registrar shall not be dismissed without the previous sanction of the Government of Mysore.

Chief Court to be High Court having control over all other Courts.

Section 10.—The Chief Court shall be deemed, for the purpose of all enactments for the time being in force, to be the highest Court of civil and criminal appeal, reference and revision in the Territories of Mysore, and all the Courts, civil and criminal, in the said Territories, shall be subject to its superintendence and control.

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Section 11.—Where, in any suit or proceeding, it is necessary for the Chief Court to decide any question regarding succession, inheritance, marriage or caste or any religious usage or institution,

Law in cases of succession, &c.

(*a*) the Muhammadan Law where the parties are Muhammadans, and the Hindu Law where the parties are Hindus, or

(*b*) any custom (if such there be) having the force of law and governing the parties or property concerned, shall form the rule of decision, unless such law or custom has, by legislative enactment, been altered or abolished,

(*c*) in cases where no specific rule exists, the Chief Court shall act according to justice, equity and good conscience.

Section 12.—The Chief Court shall have and exercise the ordinary original civil jurisdiction of a District Court in all suits and proceedings of a civil nature arising within such local limits as the Government of Mysore may, from time to time, by notification in the official Gazette, declare and appoint. The local limits so declared and appointed shall be deemed to be a District within the meaning of the Code of Civil Procedure. For the purpose of exercising the original civil jurisdiction vested in the Chief Court by this Section, the Chief Court shall depute one of the Judges of such Court, who shall, for the purpose aforesaid, conduct his proceedings in the same manner and subject to the same procedure as if he had been appointed to be the Judge of the District Court of the aforesaid District under the "Mysore Civil Courts Regulation, 1883."

Ordinary original Civil Jurisdiction of Chief Court.

Section 13.—The Chief Court shall have and exercise the ordinary original criminal jurisdiction of a Court of Session, within such local limits as the Government of Mysore may, from time to time, by notification in the official Gazette, declare and appoint. The local limits so declared and appointed shall be deemed to be a Sessions Division within the meaning of the Criminal Procedure Code. For the purpose of exercising the original criminal jurisdiction vested in the Chief Court by this Section, the Chief Court shall depute one of the Judges of such Court, who shall, for the purpose aforesaid, conduct his proceedings in the same manner and subject to the same procedure as if he had been appointed to be the Judge of the Court of Session for the aforesaid Sessions Division under the Code of Criminal Procedure.

Ordinary original criminal jurisdiction of Chief Court.

Section 14.—Appeals from judgments, orders, decrees, or sentences passed by any subordinate Court, civil or criminal, within the local limits referred to in Sections 12 and 13, shall, when allowed by law to a District Court or Court of Session, lie to the Chief Court.

Appeals from judgments of subordinate Courts within the limits of the ordinary original jurisdiction of the Chief Court.

All other powers ordinarily exercisable by a District Court and Court of Session shall, within the local limits aforesaid, be exercised by the Chief Court.

Section 15.—(1) Appeals against, references regarding, and revision of, judgments, decrees, orders, or sentences passed by a Judge of the Chief Court, in the exercise of the ordinary original civil and criminal jurisdiction vested in it under Sections 12 and 13, shall, when allowed by law, be heard by the Full Bench of the Chief Court.

Appeals from the decisions of the Chief Court in the exercise of original jurisdiction.

(2) Every other appeal, civil and criminal, which lies to the Chief Court under any law for the time being in force, as well as every case referred to the Chief Court for confirmation of a sentence of death, shall be heard by a Bench consisting of not less than two Judges of the said Court.

Other appeals to the Chief Court.

(3) Any Judge of the Chief Court may refer to a Full Bench of the said Court any question of law or usage having the force of law, the construction of any document or admissibility of any evidence in any suit or other proceeding pending before him or it, on which there is no further appeal under the law for the time being in force.

Reference to Full Bench.

(4) The decision of the majority of Judges composing any Full Bench of the Chief Court shall be the decision of the Chief Court. When a Bench of the Chief Court consists of only two Judges and there is a difference of opinion between such Judges on any material question pending before it, such question shall be referred to a Full Bench and the decision of the majority of Judges on such Full Bench shall be the decision of the Chief Court.

Decision of the majority to prevail.

Section 16.—The Chief Court may, whenever it deems fit, transfer any case pending before it, whether of a civil or criminal nature and whether original or appellate, to any Court of competent jurisdiction, whether situated within or beyond the local limits referred to in Sections 12 and 13 of this Regulation.

Chief Court may transfer cases.

Section 17.—The Chief Court shall hold its sittings at such place as the Government of Mysore may from time to time appoint in that behalf.

Place of sittings of Chief Court.

Whenever it appears to the Government of Mysore convenient that the jurisdiction and powers vested in the Chief Court by this Regulation or any other law for the time being in force, should be exercised in any place other than the place appointed under para 1 of this Section, or at several of such other places by way of circuit, the Government of Mysore may by order authorize and direct any one or more of the Judges of such Court to hold sittings in such place or places as by such order may be directed, and the Judge or Judges acting under such order shall have and exercise the same jurisdiction and authority as would be had and exercised by a Judge or Judges of the Chief Court as the case may be, in its ordinary place of sitting.

Section 18.—The Government of Mysore may, whenever it deems fit to do so, confer upon a Chief Judge all or any of the powers hereunder in this Section specified, and may, from time to time, cancel any such order.

Powers which may be conferred upon Chief Judge.

The Chief Judge empowered under this Section shall exercise all the powers conferred upon him under this Section, and the exercise of such powers by him shall be deemed to be the exercise of the same by the Chief Court under this Regulation.

The powers referred to in this Section are :—

1*stly*. The appointment of ministerial officers under para 1 of Section 7.

2*ndly*. The direction as to the powers and duties of ministerial officers under Section 8.

3*rdly*. The distribution of the work of the Chief Court between himself and the other Judges of the said Court, upon fair and reasonable principles.

Section 19.—Except as herein or by any other enactment for the time being in force otherwise provided, the Chief Court may make rules to provide, in such manner as it thinks fit, for the exercise, by one or more of its Judges, of any powers conferred on it by this Regulation or by any other enactment for the time being in force.

Rules for the exercise by one or more Judges of powers vested in Chief Court.

Provided that no decree, order, sentence or dicision of any Court shall be reversed by any Judge of the Chief Court sitting alone.

Section 20.—The Chief Court may, from time to time,

Power of Chief Court to make rules.

(*a*) make rules consistent with this Regulation conferring and imposing on the ministerial officers of the Courts subject to its superintendence, such powers and duties of a ministerial nature as it thinks fit, and regulating the mode in which the powers and duties so conferred and imposed shall be exercised and performed ;

(*b*) make rules consistent with this Regulation to determine in what cases pleaders practising in such Courts shall be permitted to address such Courts in English ;

(*c*) prescribe forms for such books, entries, statistics, and accounts as it thinks necessary should be kept, made or compiled in such Courts or submitted to any authority ;

(*d*) make rules consistent with this Regulation, providing for the inspection of such Courts and supervision of the working thereof;

(*e*) make such rules consistent with this Regulation, institute such enquiries and submit such recommendations to the Government of Mysore, as it may think fit, with a view to promoting the efficiency of the judicial and ministerial officers of such Courts and maintaining proper discipline among such officers.

Section 21.—All rules made and forms prescribed under Sections 19 and 20 shall be submitted for sanction to the Government of Mysore, and on receiving such sanction, shall be published in the official Gazette, and shall thereupon have the force of law.

Rules and forms under Sections 19 and 20 to be submitted for sanction to the Government of Mysore.

Section 22.—The Chief Court shall keep such registers, books and accounts as may be necessary for the transaction of the business of the Court, and shall submit to the Government of Mysore, such copies of, or extracts from, the said registers, books and accounts as well as such statements of the work done in the Chief Court and in the Courts subordinate thereto, as may, from time to time, be required by the Government of Mysore.

The Chief Court to keep Registers, &c.

BANGALORE,
9th April 1884.

K. SHESHADRI IYER,
Dewan.

DRAFT

OF

A Regulation to amend the Law relating to Legal Practitioners practising in the Courts of Mysore.

WHEREAS it is expedient to consolidate and amend the law relating to Legal Practitioners in Mysore, His Highness the Maharaja is pleased to enact as follows :—

CHAPTER I.

PRELIMINARY.

Section 1.—This Regulation may be cited "The Mysore Legal Practitioners' Regulation, 1884," and it shall come into force on the 1st day of June 1884.

Short title.

Commencement.

It shall extend to the whole of the Territories of Mysore.

Local extent.

Section 2.—On and from the 1st day of June 1884, the Rules published in Chief Commissioner's Notification No. 273, dated 18th February 1879 (relating to Advocates and Pleaders) and the Rules published in Chief Commissioner's Notification No. 306, dated 12th March 1880 (relating to the agreements of Legal Practitioners with clients, &c.,) shall be repealed.

Repeal of Rules.

Notwithstanding anything herein contained, the Advocates and Pleaders of the 1st and 2nd grade, already enrolled under the Advocates and Pleaders' Rules of the 18th February 1879, shall continue to practise under the provisions of the aforementioned Rules up to the 31st December 1884.

Section 3.—In this Regulation, unless there be something repugnant to the subject or context :—

Definitions.

"Legal Practitioner" means an Advocate or Pleader enrolled under this Regulation.

"Judge" means the presiding Judicial Officer of every Civil and Criminal Court by whatever name he is designated.

"Government" means the Government of His Highness the Maharaja of Mysore.

CHAPTER II.

ADVOCATES AND PLEADERS.

Section 4.—Except as provided in the Codes of Civil and Criminal Procedure, or in any other law for the time being in force, no person shall appear, plead or act for another in any Court in Mysore unless he has been enrolled as an Advocate or Pleader under this Regulation;

Who may practise before Courts.

Provided that every person accused before any Criminal Court with an offence may, with the permission of the Court, but not otherwise, employ any person to assist him in his defence:

Provided further that any person, *Ex-officio*, or otherwise, authorized to act for Government in respect of any judicial proceeding, may make and do appearances, acts and applications, within the scope of his authority on behalf of Government.

Courts in which Advocates may practise.

Section 5.—Advocates duly enrolled under the provisions of this Regulation shall be entitled to appear, plead and act in the Chief Court of Mysore and in all Courts subordinate thereto, civil or criminal.

Pleaders.

Section 6.—There shall be two grades of Pleaders, namely, Pleaders of the 1st grade and Pleaders of the 2nd grade.

First Grade Pleaders.

Section 7.—A Pleader of the 1st grade shall be entitled to appear, plead and act in any Civil Court situate within the District, as defined in the Code of Civil Procedure, for which he may be enrolled, and in all Criminal Courts, provided that he shall not be entitled to practise in the Chief Court.

Second Grade Pleaders.

Section 8.—A Pleader of the 2nd grade shall be entitled to appear, plead and act in any Munsiff's Court for which he may be enrolled and in the Courts of all Magistrates.

Second Grade Pleaders authorized to practise in Subordinate Judge's Court.

Section 9.—If in any place where a Subordinate Judge's Court is established, there be not resident three practising Advocates or Pleaders of the 1st grade, the Chief Court may, after six months' notice of its intention so to do published in the Official Gazette, authorize by name a sufficient number of Pleaders of the 2nd grade to practise in the Court of such Subordinate Judge.

Chief Court to make Rules in regard to qualifications and for enrolment.

Section 10.—The Chief Court may, from time to time, make rules consistent with this Regulation as to the following matters, namely :—

(1). The qualifications for admission as Advocates or as Pleaders of the 1st or 2nd grade under this Regulation;

(2). The certificates which should accompany applications for such admission; and—

(3). The stamp fee to be payable for certificates of admission to be granted by the Chief Court under Section 11, or for the grant of renewed certificates under Section 12 of this Regulation.

Rules made under this Section, when approved by the Government and published in the Official Gazette, shall have the force of law.

Application for enrolment.

Section 11.—Every person duly qualified in accordance with the Rules framed under Section 10, may apply to the Chief Court of Mysore to be enrolled as an Advocate or Pleader under this Regulation. The application shall be accompanied by the certificates and the stamp fee required by the said Rules.

The Chief Court may, if it thinks fit, grant the application, and, on the application being granted, shall issue a certificate upon a stamp paper of the proper value prescribed by the Rules framed under Section 10.

The certificate granted under this Section to a Pleader of the 1st or 2nd grade shall specify the Courts for which the applicant has been enrolled under Section 7 or 8 as the case may be.

Certificate.

Section 12.—Every certificate issued to a Pleader under this Regulation shall authorize him to practise up to the end of the current calendar year.

At the expiration of that period, the holder of such certificate, if he desires to continue to practise, shall apply for the renewal of the certificate to the Chief Court through the District Judge within whose local jurisdiction he ordinarily practises. The Chief Court shall thereupon renew the certificate from year to year: Provided that the Chief Court may decline to grant such application for proved bad character or other reason which, in the opinion of the Chief Court, unfits the applicant to continue as a Legal Practitioner.

A renewed certificate shall be issued upon a stamp paper of the proper value prescribed by rules under Section 10.

On every such renewal, the certificate then in possession of the Pleader shall be given up to, and cancelled and retained by, the Chief Court.

Suspension and dismissal of Legal Practitioners.

Section 13.—The Chief Court may suspend or dismiss any Legal Practitioner, enrolled under the foregoing provisions, who shall be convicted of any criminal offence implying a defect of character which unfits him to be a Legal Practitioner, or who is guilty of fraudulent or grossly improper conduct in the discharge of his professional duty.

Inquiry into the improper conduct of Legal Practitioners.

Section 14.—If any Legal Practitioner practising in the Chief Court or in any Court subordinate thereto shall be charged with or shall appear guilty of fraudulent or grossly improper conduct in the discharge of his professional duty, any Judge of such Court shall cause a formal charge to be drawn up setting forth concisely and exactly the alleged misconduct and shall send a copy of the said charge to the said Legal Practitioner and also a notice that on a day to be therein appointed such charge will be taken into consideration. Such copy and notice shall be served upon the Legal Practitioner at least ten days before the day so appointed. On such day or on any subsequent day to which the enquiry may be adjourned, the Court shall receive and record all evidence properly adduced in support of the charge or by the Legal Practitioner, and shall proceed to adjudicate upon the charge.

Report to Chief Court.

Section 15.—If the Judge of any Court subordinate to the Chief Court shall find the charge established and consider that the Legal Practitioner should be suspended or dismissed in consequence, he shall record his finding and the grounds thereof and shall report the same together with the proceedings to the Chief Court, and the Chief Court shall proceed to acquit, suspend or dismiss the Legal Practitioner.

Reports of subordinate Courts to be submitted through District Court and District Magistrate.

Section 16.—Such report, when made by the Judge of any Court subordinate to the District Court, or by any Magistrate subordinate to the Magistrate of the District, shall be submitted to the Judge of the District Court or to the Magistrate of the District who shall append to the report any remarks that he may

think necessary and an expression of his own opinion of the case, and shall forward the record for the orders of the Chief Court.

Immediate suspension.

Section 17.—The Judge or Magistrate may, pending the investigation and orders of the Chief Court, suspend any Pleader in his own Court and in Courts subordinate thereto.

Power of Chief Court to call for records.

Section 18.—The Chief Court, in any case in which an Advocate or Pleader shall have been acquitted otherwise than by an order of the Chief Court, may call for the record and pass such order thereon as it may deem fit.

Power of Chief Court to transfer charge.

Section 19.—The Chief Court may also direct that any charge preferred against a Legal Practitioner in any Court subordinate to the Chief Court shall be transferred for adjudication to itself or to any other Court of equal or superior grade to that in which the charge is preferred.

Note of suspension.

Section 20.—A note of the suspension of any Legal Practitioner shall be made in the roll of Legal Practitioners to be kept in the Chief Court and notice thereof shall be sent to all Courts subordinate thereto.

Removal of name of dismissed Legal Practitioner.

Section 21.—The name of any Legal Practitioner dismissed under the foregoing provisions shall be struck off the roll of Legal Practitioners in the Chief Court and notice thereof shall be sent to all Courts subordinate thereto.

CHAPTER III.

Fees.

Section 22.—The Chief Court shall, from time to time and with the sanction of the Government, make rules fixing and regulating the fees payable by any party in respect of his adversary's Legal Practitioner upon all proceedings in the Chief Court and in the Courts subordinate thereto:

Provided that the Rules now in force in respect of such fees shall be deemed to have been framed under this Section.

Remuneration to Legal Practitioners.

Section 23.—Legal Practitioners may make their own arrangements with their clients for their remuneration.

Agreement for remuneration to be filed in Court.

Section 24.—No agreement entered into by any Legal Practitioner with any person retaining or employing him, respecting the amount and manner of payment for the whole or any part of any past or future services, fees, charges or disbursements in respect of business done or to be done by such Legal Practitioner shall be proved in a suit brought to enforce such an agreement, unless the same is made in writing signed by such person, and is, within fifteen days from the day on which it is executed, filed in the District Court or in some Court in which some portion of the business in respect of which it has been executed has been or is to be done.

Unfair agreement.

Section 25.—Where a suit is brought to enforce any such agreement, if the agreement is not proved to be fair and reasonable, the Court may reduce the amount payable thereunder, or order it to be cancelled, and the costs, fees, charges and disbursements in respect of the business done to be ascertained in the same manner as if no such agreement has been made.

Section 26.—Such an agreement shall exclude any further claim of the Legal Practitioner beyond the terms of the agreement with respect to any services, fees, charges or disbursements in relation to the conduct and completion of the business in respect of which the agreement is made, except such services, fees, charges or disbursements, if any, as are expressly excepted by the agreement.

Agreement to exclude other claim.

Section 27.—A provision in any such agreement that the Legal Practitioner shall not be liable for negligence, or that he shall be relieved from any responsibility to which he would otherwise be subject as such Legal Practitioner, shall be wholly void.

Void agreement.

Section 28.—Whoever commits any of the following offences :—

Penalty for touting.

(*a*) solicits or receives from any Legal Practitioner any gratification in consideration of procuring or having procured his employment in any legal business ;

(*b*) retains any gratification out of remuneration paid or delivered or agreed to be paid or delivered to any Legal Practitioner for such employment ;

(*c*) being a Legal Practitioner, tenders, gives or consents to the retention of any gratification for procuring or having procured the employment in any legal business of himself or any other Legal Practitioner ;

shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

BANGALORE,
9*th April* 1884.

K. SHESHADRI IYER,
Dewan of Mysore.